

§ 36.4509

38 CFR Ch. I (7–1–04 Edition)

agent. Furthermore, this provision shall provide that if this fee is not paid it shall constitute an additional debt to that already secured by the instrument; and,

(iii) A provision authorizing an assumption processing charge, not to exceed the lesser of \$300 and the actual cost of a credit report or any maximum prescribed by applicable State law.

(Authority: 38 U.S.C. 3714)

(b) Whenever any veteran disposes of residential property securing a direct loan obtained under 38 U.S.C. chapter 37, the Department of Veterans Affairs, upon application made by such borrower, shall issue to the borrower a release relieving the borrower of all further liability to the Department of Veterans Affairs on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Department of Veterans Affairs has determined, after such investigation as it deems appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 3713(a) or 1814, as appropriate. The assumption of full liability for repayment of the loan by the transferee of the property must be evidenced by an agreement in writing in such form as the Department of Veterans Affairs may require. Any release of liability granted to a veteran by the Department of Veterans Affairs shall inure to the spouse of such veteran.

(c) If, on or after July 1, 1972, any veteran disposes of the property securing a direct loan obtained under 38 U.S.C. chapter 37, without receiving a release from liability with respect to such loan under 38 U.S.C. 3713(a) and a default subsequently occurs which results in liability of the veteran to the Secretary on account of the loan, the Secretary may relieve the veteran of such liability if the Secretary determines that:

(1) A transferee either immediate or remote is legally liable to the Secretary for the debt of the original veteran-borrower established after the termination of the loan, and

(2) The original loan was current at the time such transferee acquired the property, and

(3) The transferee who is liable to the Secretary is found to have been a satisfactory credit risk at the time the transferee acquired the property.

(Approved by the Office of Management and Budget under control number 2900-0516)

[15 FR 6289, Sept. 29, 1950, as amended at 33 FR 5362, Apr. 4, 1968; 37 FR 24034, Nov. 11, 1972; 46 FR 43675, Aug. 31, 1981; 55 FR 37477, Sept. 12, 1990]

§ 36.4509 Joint loans.

(a) No loan will be made unless an eligible veteran is the sole principal obligor, or such veteran and spouse or eligible veteran co-applicant are the principal obligors thereon, nor unless such veteran alone, or together with a spouse or eligible veteran co-applicant, acquire the entire fee simple or other permissible estate in the realty for the acquisition of which the loan was obtained. Nothing in this section shall preclude other parties from becoming liable as comaker, endorser, guarantor, or surety.

(b) Notwithstanding that an applicant and spouse or other co-applicant are both eligible veterans and will be jointly and severally liable as borrowers, the original principal amount of the loan may not exceed the maximum permissible under § 36.4503(a). In any event the loan may not exceed \$33,000.

(Authority: 38 U.S.C. 3711(d)(2)(A) and (3))

[43 FR 60460, Dec. 28, 1978]

§ 36.4510 Prepayment, acceleration, and liquidation.

(a) Any credit on the loan not previously applied in satisfaction of matured installments, other than the gratuity credit required by prior provisions of law to be credited to principal, may be reapplied by the Department of Veterans Affairs at the request of the borrower for the purpose of curing or preventing a default.

(b) The Department of Veterans Affairs shall include in the instruments evidencing or securing the indebtedness provisions relating to the following:

(1) The right of the borrower to prepay at any time without premium or fee, the entire indebtedness or any part

Department of Veterans Affairs

§ 36.4512

thereof: *Provided*, That any such prepayment, other than payment in full, may not be made in any amount less than the amount of one installment, or \$100, whichever is less: *And provided further*, That any prepayment made on other than an installment due date will not be credited until the next following installment due date, but not later than 30 days after such prepayment.

(2) The right of the Department of Veterans Affairs to accelerate the maturity of the entire indebtedness in the event of default.

(3) The right of the Department of Veterans Affairs to foreclose or otherwise proceed to liquidate or acquire property which is the security for the loan in the event of the borrower's delinquency in the repayment of the obligation or in the event of default in any other provisions of the loan contract.

(c) The Department of Veterans Affairs shall have the right to accelerate the entire indebtedness and to foreclose or otherwise proceed to liquidate, or acquire the security for the loan, in the event the veteran is adjudged a bankrupt, or if the property has been abandoned by the borrower or subjected to waste or hazard, or in the event conditions exist which warrant the appointment of a receiver by court.

[15 FR 6289, Sept. 20, 1950, as amended at 20 FR 6260, Aug. 26, 1955; 24 FR 2658, Apr. 7, 1959; 41 FR 44859, Oct. 13, 1976; 61 FR 28059, June 4, 1996]

§ 36.4511 Advances after loan closing.

(a) The Department of Veterans Affairs may at any time advance any sum or sums as are reasonably necessary and proper for the maintenance, repair, alteration, or improvement of the security for a loan or for the payment of taxes, assessments, ground or water rights, or casualty insurance thereon: *Provided*, That no advance shall be made for alterations or improvements which are not necessary for the maintenance or repair of the security if such advance will increase the indebtedness to an amount in excess of \$33,000.

(b) All sums disbursed incident to the making of advances under this section shall be added to the indebtedness. Department of Veterans Affairs may require any such advances to be secured

ratably and on a parity with the principal indebtedness, or otherwise secured. The sum so advanced shall be evidenced by a supplemental note or otherwise as may be required by Department of Veterans Affairs.

(c) Department of Veterans Affairs may pay and charge against the indebtedness, or against the proceeds of the sale of any security therefor, any expense which is reasonably necessary for collection of the debt, protection, repossession, preservation, or liquidation of the security or of the lien thereon, including a reasonable amount for trustees' and legal fees.

(d) The Department of Veterans Affairs may treat as an advance and add to the mortgage balance the one-half of one percent funding fee due on a transfer under 38 U.S.C. 3714 when this is not paid at the time of transfer.

(Authority: 38 U.S.C. 3714)

[15 FR 6289, Sept. 20, 1950, as amended at 38 FR 33772, Dec. 7, 1973; 41 FR 44859, Oct. 13, 1976; 55 FR 37478, Sept. 12, 1990]

§ 36.4512 Taxes and insurance.

(a) In addition to the monthly installment payments of principal and interest payable under the terms of the loan agreement, the borrower will be required to make payments monthly to the Secretary in such amounts as may be determined by the Secretary from time to time to be necessary for the purpose of accumulating funds sufficient for the payment of taxes and assessments, ground rents, insurance premiums, and similar levies or charges on the security property. The borrower at loan closing shall pay in cash to the Secretary such sum as it estimates may be necessary as the initial deposit to the borrower's tax and insurance reserve account.

(Authority: 38 U.S.C. 3720)

(b) The borrower shall procure and maintain insurance of a type or types and in such amounts as may be required by the Secretary to protect the security against fire and other hazards. The Secretary cannot make a loan for the acquisition or construction of property located in an area identified by the Federal Emergency Management Agency as having special flood hazards